

§ 1965.203

7 CFR Ch. XVIII (1–1–05 Edition)

354 office) for further clarification and a description of each group.

Prepayment. A loan which has been paid by the borrower in full, before the loan maturity date. After a prepayment, no FmHA or its successor agency under Public Law 103–354 loan remains on the property and the property is removed from the FmHA or its successor agency under Public Law 103–354 program, although restrictive-use provisions may remain.

Prohibition on prepayment. Loans which may not be prepaid prior to the final amortization date as described in § 1965.208 of this subpart.

Protected population. Individuals or families, whether very low, low, or moderate income, who are current tenant or wish to occupy rural rental housing (RRH) or labor housing (LH), and who are protected by a particular restrictive-use provision.

Regional or national nonprofit corporation or public agency. Any public agency or nonprofit corporation meeting the conditions in § 1965.216(c) of this subpart, which operates in an area larger than the local community and its trade area, or, if a nonprofit corporation, does not also have a broadly-based membership and board of directors reflecting various interests in the community or trade area, and does not have among its officers or directorate persons or parties with a material interest in (or persons or parties related to any person or party with such an interest) in loans financed under section 515 that have been prepaid. The primary purposes of the organization need not include developing or managing low-income housing or community development projects.

Rent overburden. Shelter costs (rent and anticipated utility costs) exceeding 30 percent of a tenant's adjusted income, or the amount of payment designated by a third-party payor as shelter cost, whichever is greater.

Restrictive-use provisions. Conditions restricting the use of the property to housing for very low-, low- and/or moderate-income tenants, whether or not the FmHA or its successor agency under Public Law 103–354 loan is in force or has been paid in full as described in § 1965.209 of this subpart.

Section 8. Tenant rental subsidies as provided under the Housing and Urban Development (HUD) section 8 Housing Assistance Payment Program.

Unsubsidized conventional housing. Housing which receives no interest or project based rent subsidies, and which has no maximum income limits for its residents. When a borrower submits a request for prepayment of the FmHA or its successor agency under Public Law 103–354 loan, the anticipated use of the project will be considered as unsubsidized conventional housing.

[58 FR 38931, July 21, 1993, as amended at 67 FR 78329, Dec. 24, 2002]

§ 1965.203 Nonprofit organization and public agency interest lists.

Nonprofit organizations and public agencies interested in being notified of projects being offered for sale by FmHA or its successor agency under Public Law 103–354 borrowers wishing to prepay should contact FmHA or its successor agency under Public Law 103–354. Local nonprofit and public agencies wishing to purchase projects in one district need only contact the applicable FmHA or its successor agency under Public Law 103–354 District Office. Organizations or agencies interested in one state only should contact the FmHA or its successor agency under Public Law 103–354 State Office. National and regional nonprofit organizations interested in receiving multi-state notifications should contact the FmHA or its successor agency under Public Law 103–354 National Office. Interested organizations should submit their names, addresses, contact persons, and the areas in which they wish to purchase. The notification to FmHA or its successor agency under Public Law 103–354 must be updated annually if the organization wishes to continue to receive notifications of pending prepayments. FmHA or its successor agency under Public Law 103–354 will send notices requesting the update at least 30 days prior to removing the organization's name from the list. The National Office will not verify the eligibility of the organizations requesting notification, but will periodically forward the names of interested organizations to State Offices. The State Office will periodically compile a list of interested

nonprofit organizations and public agencies and forward the list to its District Offices.

§ 1965.204 Processing prepayment requests and related rent increases.

(a) *Chronological order of steps in processing prepayment requests.* Prior to approving prepayment of an FmHA or its successor agency under Public Law 103-354 MFH loan, FmHA or its successor agency under Public Law 103-354 must determine the eligibility and ability of the borrower to prepay the loan; attempt to keep needed housing in the very low-, low-, and moderate-income market; and ease the transition of tenants that may be affected by the conversion of a federally-financed project to unsubsidized conventional housing. The remainder of this procedure provides the chronological order for the actions to be taken:

- (1) Borrower written request for prepayment (§1965.205 and exhibit C of this subpart).
- (2) Required notifications (§1965.206 of this subpart).
- (3) Evaluation of borrower ability to prepay (§1965.211 and exhibit E of this subpart).
- (4) FmHA or its successor agency under Public Law 103-354 incentive offer and borrower decision regarding incentives (§§1965.213 and 1965.214 and exhibits D and E of this subpart).
- (5) Evaluation of project need by FmHA or its successor agency under Public Law 103-354 (§1965.210 and exhibit E of this subpart).
- (6) Approval of prepayment under exception authority (§1965.215 and exhibit E of this subpart).
- (7) Sale to nonprofit organizations or public agencies (§§1965.216 and 1965.217 of this subpart).
- (8) Approval of prepayment in the absence of interest in purchase by nonprofit organization of public agency (§§1965.218 and 1965.219 of this subpart).
- (9) Actions to be taken in the event of restrictive-use violations (§1965.222 of this subpart).
- (10) Relationship of these procedures to other servicing actions (§1965.223 of this subpart).
- (11) Prepayment of loans due to advance payments or completion of am-

ortized payments (§1965.224 of this subpart).

(b) *Rent increases resulting from prepayment process.* If rent increases are necessary due to the making of an equity loan to avert prepayment with or without a transfer, the procedures for tenant notifications and comment will be followed as set forth in paragraphs IV B of exhibit C to subpart C of part 1930 of this chapter. The reason for the rent increase will be shown as "to meet the additional expense incurred in order to avert removal of (name of project) from the FmHA or its successor agency under Public Law 103-354 program."

[58 FR 38931, July 21, 1993, as amended at 58 FR 40956, July 30, 1993]

§ 1965.205 Borrower request to prepay.

(a) Prior to initiating a formal prepayment request, borrowers considering prepaying their loans should meet with the applicable FmHA or its successor agency under Public Law 103-354 Servicing Office to discuss the prepayment request and the requirements of this procedure. The borrower will be provided with exhibit C of this subpart, to aid in completing the prepayment request package.

(b) At the meeting, the Servicing Office will inform the borrower that the project will be evaluated as unsubsidized conventional multi-family housing for the purposes of determining eligibility for incentives. An appraisal will be completed to determine if any equity exists in the project when valued as unsubsidized conventional multi-family housing. The components of the incentive offer, if any, will be dependent upon the amount of equity as follows:

- (1) If the project has equity in excess of the borrower's initial investment, an equity loan and a combination of additional incentives may be considered;
- (2) If no equity exists, but it can be shown that the project can be prepaid and operated successfully in the subject market, a combination of incentives not including an equity loan will be considered; or